SINGLE BENCH

C.S. 10/-

R.R. No. 1585/06
Presented by Shri J Bhavani
dated 23/3/06

[1]

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. NO. 1713 /2006

PETITIONER :- Devnath S/o Ujiyar, Caste Rajwar, aged 61 years, Occupation Agriculture, R/o village Kunj Nagar, Tahsil Surajpur, District Surguja [C.G.].

VERSUS

RESPONDENTS :- (1) Kesho Prasad S/o Jagarnath caste Rajwar, aged 48 years.

(2) Girwar Prasad S/o Jagarnath, caste Rajwar, aged 38 years.

(3) Jagarnath S/o Ujiyar caste Rajwar, aged 65 years.

All R/o village Kunj Nagar, Tahsil Surajpur, District Surguja [C.G.].

(4) State of Chhattisgarh, through Collector, District Surguja [C.G.].

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25/3/06
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PETITION UNDER ARTICLE 227 OF CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

17

आदेश पत्रक

W.P.No. 1743/2006

मामला क्रमांक ..... सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	10.04.2006 Shri J.K. Shastri, counsel for the petitioner. Heard on admission. The submission of learned counsel for the petitioner is that the petitioner was plaintiff in the trial Court. He filed a suit for partition, claiming ½ share in the suit property. The petitioner's suit for partition was partly decreed by the trial Court holding him to be entitled to the extent of 1/3 share in the suit property instead of ½ share, as claimed by him. Against this decree, the plaintiff/petitioner filed an appeal and he also filed an application for grant of stay under Order 41 Rule 5 C.P.C. before the appellate Court. This application was dismissed by the appellate Court. However, the appeal is pending. His further submission is that the petitioner apprehends that in the meantime, the proceedings of partition pending before the revenue Court may be expedited. In the opinion of this Court the remedy of the petitioner does not lie in filing an application under Order 41 Rule 5 C.P.C. or the writ petition instead it lies in filing an application for temporary injunction under Order 39 Rule 1 and 2 C.P.C. The petition has no merits and the same is dismissed. However, the petitioner shall be at liberty to file appropriate application for temporary injunction before the appellate Court. **Sd/-** **Sunil Kumar Sinha** **Judge**	

[पीछे देखिये